for he has none, but for the demerit of his antagonist in delaying the contest beyond the period assigned for it, when papers may be lost, facts forgotten or witnesses dead". The title of the disseisor is only made perfect by rendering the rightful owner powerless to defeat it, either by entry or by ejectment.[8] The practical effect of this is to constitute the statute of limitations a source of title to the occupant, to which he may appeal to sustain an action of ejectment against the rightful claimant or a third person.[9]

The California statute recognizes the practical effect of this theory and expressly provides that occupancy for the period prescribed by the Code of Civil Procedure as sufficient to bar an action for the recovery of property confers a title thereto which is sufficient against all.[10] The obvious effect of this is to give the disseisor a title from a new source, than which none can be better or more absolute[11] in effect, although, as a practical matter, it may be unmarketable, because not a perfect title of record until quieted against the holder of the record title.

Since a title by adverse possession is really based upon the laches of the real owner or disseisee, it is immaterial that the person claiming such a title is under a legal disability, for instance that of infancy.[12] An alien may acquire such a title, and no one but the state can question his right to hold the land thus gained.[13] So also a private corporation may gain a title by virtue of the running of the statute, even though holding the land is ultra vires or directly prohibited by statute.[14] The same rule is logically applicable to the situation in the principal case, leaving the title of the city unimpeachable except by the state, or possibly, by a taxpayer.[15]

A. A.

ATTACHMENT: RESIDENCE: FOREIGN CORPORATIONS.—In *Jennings v. Idaho Railway, Light & Power Company,*[1] it was held that a foreign corporation which has complied with the laws of Idaho

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[8] Tiedeman, Real Property, 2nd ed., § 717.

[9] Minor and Wurts, Real Property, 1st ed., § 820.

[10] Cal. Civ. Code, § 1007.

[11] Woodward v. Farris (1895), 109 Cal. 12, 18, 41 Pac. 781.

[12] Woodruff v. Roysden (1900), 105 Tenn. 491, 58 S. W. 1066, 80 Am. St. Rep. 905.

[13] Scottish American Mortgage Co. v. Butler (1911), 99 Miss. 56, 54 So. 666, Ann. Cas. 1913-C, 1236; Overing v. Russell (1860), 32 Barb. (N. Y.) 263.

[14] Myers v. McGavock (1894), 39 Neb. 843, 58 N. W. 522, 42 Am. St. Rep. 627.

[15] Beckett v. Petaluma (Jan. 8, 1915), 20 Cal. App. Dec. 46, 53. (Under § 325 Cal. Code Civ. Proc. payment of taxes levied and assessed upon land is a necessary element of adverse possession. A taxpayer may enjoin the application of city funds to illegal or ultra vires purposes. Dillon, Municipal Corporations, 5th ed., §§ 1579-1587).

[1] (Idaho, Jan. 20, 1915), 146 Pac. 101.

respecting such corporations, is a non-resident of the state, and that its property is subject to attachment under a statute that permits the property of a defendant not residing in the state to be attached. The court based its decision upon the proposition that the domicile, residence, and citizenship of a corporation are in the state where it is created, and that unless a corporation is domesticated it can have but one domicile, one residence, and one citizenship, which is in the state issuing its charter, and that therefore foreign corporations complying with the laws of a state do not occupy the same position with reference to attachment laws as domestic corporations.

It has been very generally held, and for many different purposes, in language which is possibly too broad, that the legal existence, the home, the domicile, the habitat, the residence, the citizenship of a corporation is in the state by which it is created.[2] Thus the federal courts will not take jurisdiction of a case against a foreign corporation doing business in a state, where the plaintiff does not reside in the state.[3] The various states permit foreign corporations to be sued in their courts, by reason of the fact that the question of jurisdiction is not so much one of residence as one of finding a corporation within the borders of a state.[4] One view of the question of venue is that a foreign corporation may be sued in any county of the state,[5] while another is that it should be sued at its principal place of business within such state.[6] But as residence is more truly an attribute of a natural person than of an artificial one, whether a corporation is to be considered a resident of a particular place by virtue of its doing business there, depends entirely upon the connection in which the problem arises and where the problem is one of statutory construction it should be solved in the light of the purposes of the act.[7] It is probably in view of this that foreign corporations are generally held to be within the statutes authorizing attachment against non-residents.[8]

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[2] Shaw v. Quincy Mining Co. (1892), 145 U. S. 444, 12 Sup. Ct. Rep. 935, 36 L. Ed. 768.

[3] Stone v. Chicago, B. & Q. R. R. Co. (1912), 195 Fed. 832; Shaw v. Quincy Mining Co., supra, note 2.

[4] Wiar v. Wabash R. R. Co. (1911), 151 Ia. 121, 130 N. W. 794.

[5] Waechter v. Atchison, etc. Ry. Co. (1909), 10 Cal. App. 70, 101 Pac. 4. This case decides that Cal. Const. art. 12, § 16 does not apply to foreign corporations. Thomas v. Placerville Gold Quartz Mining Co. (1884), 65 Cal. 600, 4 Pac. 641; Boyer v. Northern Pac. R. R. Co. (1901), 8 Idaho 74, 66 Pac. 826, 70 L. R. A. 691.

[6] Wiar v. Wabash R. R. Co., supra note 4.

[7] Kimmerle v. Topeka (1912), 88 Kan. 370, 128 Pac. 367.

[8] Iroquois Furnace Co. v. Wilkin Mfg. Co. (1899), 181 Ill. 582, 54 N. E. 987, reversing 77 Ill. App. 59; Cook & Son Mining Co. v. Thompson (1909), 110 Va. 369, 66 S. E. 79; Voss v. Evans Marble Co. (1902), 101 Ill. App. 373; Albright v. United States Clay Production Co. (1904), 5 Pen. (Del.) 198, 62 Atl. 726; but see, contra, Burr v. Co-operative Construction Co. (1911), 162 Ill. App. 512, distinguishing between residence and citizenship.

This is generally the rule although the corporation has complied with all state statutes,[9] some states, however, taking a different view.[10] The California courts have not determined as yet whether our statute, which also provides for attachments against non-residents, permits an attachment of the property of a foreign corporation,[11] but in view of the general rule on the subject, it probably does. *C. W. S.*

BANK DEPOSITS: JOINT OWNERSHIP WITH RIGHT OF SURVIVORSHIP: GIFTS.—The cases of *Kennedy* v. *Kennedy*[1] and *Boyle* v. *Dinsdale*[2] are examples of the fecundity of the subject of the disposition of deposits in savings banks as a source of litigation. In the former case there was a written contract of deposit by which it was provided that the account was to be joint with a right of survivorship; in the latter there was a deposit in trust in the names of the donees, subject to the right of the donor to take the interest during his life. In both cases the survivors were held to be entitled to the deposits.

The most commonly recurring situations presented to the courts in this sort of cases may be classified as joint deposits, gifts, and deposits in trust.

In the first situation, where there is merely a deposit jointly in the names of the donor and donee, it is clear that the transaction cannot be upheld as a gift either *inter vivos* or *mortis causa* because the donor has not parted with control over the subject matter,[3] although, in California at least, such a transaction will be supported as a trust where there are acts or declarations of the depositor showing an intention to create a trust.[4] The difficulty in such a situation is that, in the absence of any written instrument clearly disclosing the donor's intention in those respects, such intention must be proved entirely by parol.[5] If there is a written instrument executed by the parties declaring their rights or interests respecting the deposit, or the terms under which it is made and is to be held by the bank, little difficulty will be experienced, even if the depositor retains possession of the deposit book.[6]

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[9] Voss v. Evans Marble Co., supra, note 8; Albright v. United Clay Production Co., supra note 8.

[10] Stonega Coke & Coal Co. v. So. Steel Co. (1910), 123 Tenn. 428, 131 S. W. 988, 31 L. R. A. (N. S.) 278.

[11] Cal. Code Civ. Proc. § 537.

[1] (Feb. 11, 1915), 49 Cal. Dec. 167, 146 Pac. 647.

[2] (Utah, Aug. 20, 1914), 143 Pac. 136.

[3] Robinson v. Mutual Savings Bank (1908), 7 Cal. App. 642, 95 Pac. 533.

[4] Drinkhouse v. German S. & L. Soc. (1911), 17 Cal. App. 162, 118 Pac. 953; Booth v. Oakland Bank of Savings (1898), 122 Cal. 19, 54 Pac. 370.

[5] Denigan v. Hibernia S. & L. Soc. (1899), 127 Cal. 137, 59 Pac. 389.

[6] Kennedy v. Kennedy, note 1, supra; Farrelly v. Emigrant etc. Sav. Bank (1904), 92 App. Div. 529, 87 N. Y. Supp. 54, affirmed in 179 N. Y. 594, 72 N. E. 1141.